

MARK BAER #5440
Assistant Attorney General
MARK SHURTLEFF #4666
Attorney General
Attorney For The State of Utah
160 East 300 South
Salt Lake City, Utah 84114
Telephone: (801) 366-0199

IN THE THIRD DISTRICT COURT, SALT LAKE DEPARTMENT
SALT LAKE COUNTY, STATE OF UTAH

STATE OF UTAH, Plaintiff, v. MICHAEL R. PARK DOB: 10-25-57 Defendant.	STATEMENT OF DEFENDANT CERTIFICATE OF COUNSEL AND ORDER Criminal No. 081902888
--	---

COMES NOW, MICHAEL R. PARK the defendant in this case and hereby acknowledges and certifies the following:

I have entered pleas of guilty, to the following crime(s):

<u>CRIME</u>	<u>DEGREE SENTENCE</u>	<u>POSSIBLE PENALTY</u>
A. Failure to Make, Render* Sign or Verify Tax Return §§ 76-8-1101 ©; 76-4-1011	Third Degree Felony	0-5 Yrs. USP (Ct: 1)** \$1,000 - \$5,000 fine *** 85% surcharge
B. Attempt Tax Evasion* §§ 76-11-1101(d) ****	Third Degree Felony	0-5 Yrs. USP (Ct: 5)** \$1,500 - \$25,000 fine *** 85% surcharge

* By agreement, the Parties have agreed to include all charged years into this count.

** Number of Count in Original Information.

*** Utah Code Section 76-8-1101, provides for the following minimum fines: \$1,000.00-\$5,000.00 for the Failure to Make, Render, Sign or Verify Tax Return or the Supplying of False or Fraudulent Information and from \$1500.00 to \$25,000.00 for Attempted Tax Evasion

**** Amended from a second degree felony by amount and/or attempt.

I have received a copy of the charge against me, I have read it, and I understand the nature and elements of the offense(s) for which I am pleading guilty.

The elements of the crime(s) of which I am charged are as follows:

- With respect to (A) and (B) above: On or about Tax Years 2001 through 2007 with an intent to evade a lawful requirement and/or requirement of the Utah State Tax Commission, I, (the defendant) did knowingly fail to make, render, sign or verify tax returns within the time required by law and/or did collect sales tax and failed to remit the same to the State of Utah and intentionally and/or willfully attempted to evade or defeat the payment of a tax, to wit personal income taxes and sales tax receipts which I collected but failed to remit to the State of Utah.

My conduct, that constitutes the elements of the crime(s) charged are as follows: As to all counts noted above, and in different years representing different offenses, while operating a business in the State of Utah at least 50% or more of the time I collected funds from various businesses as sales taxes and/or as payment of withholding taxes on behalf of said businesses and during all time periods in question and I failed to remit withholding or sales taxes on behalf of said businesses, despite being obligated so to do and despite having collected funds for this purpose. I also failed to report, or fully report, or file lawful tax returns concerning my income during the times in question; to wit, 2001-2007.

I am entering this/these plea(s) voluntarily and with knowledge and understanding of the following facts:

_____ 1. I know that I have the right to be represented by an attorney and that if I cannot afford one, an attorney will be appointed by the court at no cost to me.

_____ 2. I have not waived my right to counsel. My attorney is Kevin Richards. I have had an opportunity to discuss this Statement, my rights and the consequences of my guilty plea(s) with my attorney.

_____ 3. I know that I have a right to a trial by jury and that a jury would have to be unanimous in order to convict.

_____ 4. I know that if I wish to have a trial, I have the right to confront and cross-examine witnesses against me or to have them cross-examined by my attorney. I also know that I have the right to have my witnesses subpoenaed at state expense to testify in court on my behalf.

_____ 5. I know that I have a right to testify in my own behalf, but if I choose not to do so, I can not be compelled to testify or give evidence against myself and no adverse inferences will be drawn against me if I do not testify.

_____ 6. I know that if I wish to contest the charge against me, I need only plead "not guilty" and the matter will be set for trial, at which time the State of Utah will have the burden of proving each element of the charge in the State's original Information, beyond a reasonable doubt. If the trial is before a jury, the verdict must be unanimous.

_____ 7. I know that under the Constitution of Utah, if I were tried and convicted by a jury or by the judge, I would have the right to appeal my conviction and sentence to the Utah Court of Appeals or, where allowed, to the Supreme Court of Utah and that if I could not afford to pay the costs and attorney fees for such appeal, those expenses would be paid by the State.

_____ 8. I know the maximum possible sentence that may be imposed for each offense to which I plead guilty. I know that the sentence generally may be for a jail and/or prison term,

a fine, or both and I understand that if the Court agrees to have me placed on probation without any incarceration at the time of sentencing, that I may be incarcerated for any part or all of the suspended sentence in the event that I am found to have violated any of the conditions of probation entered in this case. I know that in addition to any fine, a 85% surcharge, required by Utah Code Annotated § 63-63a-1, will be imposed. I also know that I may be ordered by the court to make restitution to any victim or victims of my crime.

_____ 9. I know that imprisonment, although it is agreed that none shall be ordered at the time of sentencing, if ultimately ordered on account of any violation of any condition of my abeyance period and/or probation ordered in this case, may be for consecutive periods, or in any event the fine may be an amount for each charge, if my plea is to more than one charge. I also know that if I am incarcerated, on probation, parole, or awaiting sentencing on another offense of which I have been convicted or to which I have pleaded guilty, my plea in the present action may result in consecutive sentences being imposed upon me.

_____ 10. I know and understand that by pleading guilty I am waiving my statutory and constitutional rights set out in the preceding paragraphs. I know that by entering such plea(s), I admit that I have committed the conduct alleged and I am guilty of the crimes for which my plea(s) is/are entered.

_____ 11. I understand that any motion to withdraw my pleas of guilty must be filed with the court within 30 days after sentencing in this case that my right(s) to so withdraw are significantly more narrow than had I elected to go to trial and been convicted after such trial.

_____ 12. My pleas of guilty are the result of a plea bargain between myself and my counsel and the State as represented by the prosecuting attorney.

_____ 13. I understand that the promises, duties and provisions of this plea bargain, if any, are set forth in this document in full as follows.

_____ 14. I acknowledge that in this case the State has agreed to dismiss all counts to which I am not entering a plea and will agree not to file any other charges - strictly as concerns any allegations arising out of tax related activity that gave rise to this criminal case - that did or may have occurred up to the entering of the plea in this case.

_____ 15. I understand that in addition to the foregoing, the State has agreed to recommend that I be placed on probation for a period of three years for counts to which I am entering a plea.

_____ 16. I understand that if I commit any crimes or do not make ongoing monthly fine or restitution payments or complete any ongoing community service obligation that may be imposed in this case, that such failure may trigger an Order to Show Cause hearing which may result in an order of incarceration for a period of up to five (5) years on each count as I understand and agree that the State will recommend that the Court enter an order of consecutive sentences as to each charge.

_____ 17. I also understand and agree that any further filings and/or pleadings, including any notices, requests or show cause proceedings initiated by the State may be served upon my counsel of record and that I will keep the Court, State and Utah State Tax Commission apprised of my current address and any changes in that address within five(5) days of any change. Service on my attorney, or in the case of his withdrawal, my last known address shall constitute service upon me.

_____ 18. Other sentencing conditions specifically approved by me are as follows:

a. To the extent required by law, I have filed all past and current tax returns, both personal and business returns, and will file all future returns timely and completely as a specific condition of any sentence in this case.

b. I must cooperate with the Utah State Tax Commission (USTC) in any further non-criminal hearing(s), whether formal or otherwise, to review and/or determine my tax filing obligations and/or any tax liabilities for years not

included in the original Information in this case.

c. I agree to perform an appropriate community service requirement which the State believes should be at or around 200 hours.

d. I agree to speak on the record with representatives of the USTC with respect to any other individuals act or actions involving allegations or possibilities of improper tax activity and that I will truthfully so speak and will assist the USTC in their efforts with any information that I may have or know.

e. I will register all my Utah vehicles, boats, recreational vehicles, etc, with the State of Utah and will obtain a Utah motor vehicle license.

f. I will commit no further crimes.

g. I will adhere to any other conditions imposed by the Court as a condition(s) of any probation that may be entered in this case.

h. I will pay full restitution in this case over the time period of any probation that might be ordered in this case.

i. I acknowledge and agree that in the event that the State determines or believes that I owe additional amounts of money on account of improperly retaining monies that were due the victims in this case then I shall be liable for the payment of such additional restitution, as determined by the Court after notice and hearing.

j. The failure of payment on such any restitution ordered in this case at any time, may be grounds for a finding of a violation of the conditions of this agreement, subjecting me to up to ten (10) years incarceration by having the convictions entered into the Court record, upon notice and hearing.

k. I understand that in the event that I withdraw my plea and/or appeal my conviction(s) which in either event results in a reversal or remand, that unless specifically proscribed by an appellate court, the State shall have the right to file and pursue all charges originally filed in this case at their original charging levels and/or at any higher level as allowed by law and that the State will be free to seek financial and/or punitive sanctions, including prison and/or jail, to the full extent as allowed under any or all of the charges upon which I am convicted.

_____ 20. I must be truthful and honest in all representations made to any Adult Probation and Parole Officer if assigned to this case, both in preparation of any Pre-Sentence Report ordered in this case (if applicable) or in the event that I am placed immediately on

probation. If there is a failure in this regard, as demonstrated by the State, such failure will free the State to take any action and/or make any recommendations as the State independently and singularly decides so to do.

_____ 21. I know that sentencing concession, recommendation of probation or suspended sentence, including reduction of the charges for sentencing made or sought by defense counsel or the prosecuting attorney are not binding on the judge. I know that any opinions expressed to me as to what the court may generally do aren't binding on the Court.

_____ 22. No threats, coercion, or unlawful influence of any kind have been made to induce me to plead guilty, and no promises except those contained herein have been made to me.

_____ 23. I've read this Statement or had it read to me by my attorney, and I understand its provisions. I know that I am free to request a change or deletion of anything contained in this Statement. I do not wish to make any changes because all of the statements are correct.

_____ 24. I'm satisfied with the advice and assistance of my attorney.

_____ 25. I am ____ years of age; I have attended school through the ____st grade and I can read and understand the English language or an interpreter has been provided to me.

_____ 26. I am not / was not under the influence of any drugs, medication or intoxicants when the decision to enter the plea(s) was made. I am not presently under the influence

of any drugs, medication or intoxicants which impair my judgment.

27. I believe myself to be of a sound and discerning mind, mentally capable of understanding the proceedings and the consequences of my plea and free of any mental disease, defect or impairment that would prevent me from knowingly, intelligently and voluntarily entering my plea.

_____ 28. I understand that this Statement was created by mutual assent and effort and that no inference, advantage nor disadvantage shall be attributed to either party as a result of the process of its creation.

DATED this ____ day of _____, 2008.

DEFENDANT

CERTIFICATE OF ATTORNEY

I certify that I am the attorney for MICHAEL R. PARK, the defendant above, and that I know he/she has read the statement or that I have read it to him/her and I have discussed it with him/her and believe that he/she fully understands the meaning of its contents and is mentally and physically competent. To the best of my knowledge and belief, after an appropriate investigation, the elements of the crime(s) and the factual synopsis of the defendant's criminal conduct are correctly stated and these, along with the other representations and declarations made by the defendant in the foregoing statement, are accurate and true.

ATTORNEY FOR DEFENDANT

CERTIFICATE OF PROSECUTING ATTORNEY

I certify that I am the attorney for the State of Utah in the case against MICHAEL R. PARK defendant. I have reviewed this statement of the defendant and find that the declarations, including the elements of the offense of the charge(s) and the factual synopsis of the defendant's criminal conduct which constitutes the offense are true and correct. No improper inducements, threats, or coercion to encourage a plea have been offered defendant. The plea negotiations are fully contained in the statement or as supplemented on the record before the court. There is reasonable cause to believe that the evidence would support the conviction of defendant for the offense(s) for which the plea(s) is/are entered and acceptance of the plea(s) would serve the public interest.

PROSECUTING ATTORNEY

ORDER

Based upon the facts set forth in the foregoing statement and certification, the court finds the defendant's plea(s) of guilty is freely and voluntarily made and it is so ordered that the defendant's plea(s) of guilty to the charge(s) set forth in the statement be and the accompanying stipulation be accepted and entered.

DONE IN COURT this _____ day of _____, 2008.

DISTRICT COURT JUDGE